

1 JOHN BRISCOE (State Bar No. 053223)
2 LAWRENCE S. BAZEL (State Bar No. 114641)
3 MELANIE TANG (State Bar No. 221264)
4 BRISCOE IVESTER & BAZEL LLP
5 155 Sansome Street, Seventh Floor
6 San Francisco, CA 94104
7 (415) 402-2700
8 Fax (415) 398-5630

9 Attorneys for Defendants CUE VI, LLC and
10 UNION PACIFIC RAILROAD COMPANY

11 UNITED STATES DISTRICT COURT
12 NORTHERN DISTRICT OF CALIFORNIA

13 HUMBOLDT BAYKEEPER, a program of
14 Ecological Rights Foundation, and
15 ECOLOGICAL RIGHTS FOUNDATION, a
16 non-profit corporation,

17 Plaintiffs,

18 v.

19 UNION PACIFIC RAILROAD COMPANY, a
20 Delaware corporation, NORTH COAST
21 RAILROAD AUTHORITY, a state agency, and
22 CUE VI, LLC, an Alaska limited liability
23 company,

24 Defendants.

No. 06-02560 JSW WDB

**STIPULATION FOR BRIEFING
SCHEDULE AND CONTINUANCE
OF HEARING ON PLAINTIFFS'
MOTION TO COMPEL; SCHEDULE
FOR SITE INSPECTION;
[PROPOSED] ORDER**

25 On January 23, 2008, Humboldt Baykeeper and Ecological Rights Foundation ("Plaintiffs")
26 filed a motion to compel discovery from defendants CUE VI, LLC and Union Pacific Railroad
27 Company ("Defendants"). Defendants would like additional time to respond to the motion given
28 the litigation dates in February. The parties discussed a briefing schedule and hearing date for
Plaintiffs' motion as well as Plaintiffs' Request for Inspection, Wet Weather. Plaintiffs also
discussed the problem with pushing the hearing date given the need to review responsive
documents should Plaintiffs' motion be successful in time to file their opening motion for summary
judgment, which Judge White ordered be filed March 28, 2008.

Plaintiffs and Defendants, by and through their counsel, hereby stipulate to the following.

IT IS HEREBY STIPULATED AND AGREED that:

1 1. The hearing on Plaintiffs' motion to compel should be continued from February 27,
2 2008 until March 14, 2008 at 1:30 p.m. Defendants will file their opposition on or before February
3 25, 2008 and Plaintiffs will file their reply on or before March 5, 2008.

4 2. If Plaintiffs' motion to compel is granted, Defendants agree to produce responsive
5 documents and discovery responses within 7 days of the Court's final decision, except for
6 documents ordered to be produced responding to Plaintiffs' Third RFP to Union Pacific and Fourth
7 RFP to CUE, which shall be produced within a reasonable time as ordered by the Court.

8 3. Plaintiffs will complete their inspection on March 4, 2008 and will limit it in scope
9 as to time and individuals attending. Specifically, the inspection will be limited to: observing the
10 site and water flow during a rain event, determining where a pipe originating along the southern
11 end of the Balloon Track in what has sometimes been referred to as the "Coors Lite culvert" ends;
12 and collecting no more than 5 water samples and 1 sediment sample. Plaintiffs will provide a list
13 of the persons to be attending the inspection by March 1, 2008. Plaintiffs will provide a release in
14 the form previously used for each person entering the site. Plaintiffs will provide to Defendants
15 copies of all videos, recordings, and test results obtained in connection with the investigation of
16 where the pipe ends within 14 days of receipt.

17
18 DATED: February 1, 2008.

LAWYERS FOR CLEAN WATER, INC.

19
20
21 By: _____/s/
22 Layne Friedrich
23 Attorneys for Plaintiffs HUMBOLDT
24 BAYKEEPER and ECOLOGICAL RIGHTS
25 FOUNDATION
26
27
28

1 DATED: February 1, 2008.

BRISCOE IVESTER & BAZEL LLP

2
3 By: _____/s/_____
4 Lawrence S. Bazel
5 Attorneys for Defendants CUE VI, LLC and
6 UNION PACIFIC RAILROAD COMPANY

7 I, Lawrence Bazel, attest that the content of this document is acceptable to all persons
8 required to sign this document.

9 DATED: February 1, 2008.

BRISCOE IVESTER & BAZEL LLP

10
11 By: _____/s/_____
12 Lawrence S. Bazel
13 Attorneys for Defendants CUE VI, LLC and
14 UNION PACIFIC RAILROAD COMPANY

15 **[PROPOSED] ORDER**

16 GOOD CAUSE APPEARING, the hearing on Plaintiffs' motion to compel is continued
17 from February 27, 2008 until March 14, 2008 at 1:30 p.m. Defendants will file their opposition on
18 or before February 25, 2008 and Plaintiffs will file their reply on or before March 5, 2008.

19 The site inspection and document production shall be conducted as agreed above.

20 IT IS SO ORDERED.

21 DATED: 2/1, 2008

22
23 By: 
24 Wayne D. Brazil, Judge
25 United States District Court for the Northern
26 District of California
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